marital rights of any person he might thereafter marry. *Higgins* v. *Higgins*, 76 N. E. Rep. 86. The court decided that, as a conveyance made with a general intent to defraud future creditors may be avoided by them, the wife, being in an analogous position, may also have relief.

At what time such a conveyance must be made in order that relief will be given is a question on which there are conflicting views. Some courts hold that there must be clear proof of an existing engagement at the time the conveyance is made;[2] others that relief will be given if the conveyance is made during the intimate relationship of courtship.[3] It is interesting to note that in the latter cases the conveyance was made pending negotiations for property settlements.[4] No court or text writer seems to have intimated that a conveyance will be impeached unless there be fraud intended upon some particular person, though one judge carefully refused to express an opinion until the question should arise for decision.[5]

Betrothal creates a status,[6] and the reason for interference is that there is a fraud on this status.[7] The true ground for the relief is not the disappointment of an expectation, but fraud on a legal right, — that is, the right to a marriage without any secret alteration of the circumstances as they stood at the time of betrothal, — and therefore knowledge at the time of entering the relation as to the amount of the other's property is immaterial.[8] It would accordingly seem that the right to relief flows directly from the betrothal, and no alienation made before that can be complained of. A line must be drawn somewhere, and to go back into the period before betrothal, and even before acquaintance, seems to require a needless solicitude for the protection of the wife at the expense of innocent donees.

If, then, in the principal case there are no equitable rights founded on fraud, neither are there any legal rights founded on the fact that the deed was unrecorded until after marriage.[9] Even under a statute holding unrecorded deeds good only against the grantor and his heirs, it is held that the wife's rights are served only out of the seisin of the husband during coverture, and that the unrecorded deed divested him of that.[10] Therefore it would seem that the doctrine of the principal case is unsound from any common law standpoint; and it is very doubtful if it can be sustained even under a narrow construction of the Illinois statute against conveyances in fraud of "creditors or other persons."

CONSTITUTIONALITY OF THE NEW YORK STOCK TRANSFER STAMP TAX. — The impossibility of devising a system of taxation that shall distribute the burdens of government equitably, and the expediency of leaving a large discretion to the legislatures, have moved the courts to construe narrowly section one of the Fourteenth Amendment, and similar sections of the state constitutions. The line beyond which the legislature cannot go is

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[2] Gregory *v.* Winston, 23 Gratt. (Va.) 102.
[3] See 2 Bishop, Law of Married Women § 342.
[4] See cases cited by Bishop, *supra.*
[5] See Goddard *v.* Snow, 1 Russ. 485.
[6] See Frost *v.* Knight, L. R. 7 Exch. 111.
[7] See 14 HARV. L. REV. 452.
[8] Chandler *v.* Hollingsworth, *supra.*
[9] Richardson *v.* Skofield, 45 Me. 386.
[10] Blood *v.* Blood, 23 Pick. (Mass.) 80.

incapable of definition, and can be discovered only by an examination of the cases and by the use of a sound judicial common sense. The most important principle to be observed, and one that is too rarely emphasized, is that the justice of a tax is a purely relative matter. To exact from the watchmakers the total revenue of the state would be such an arbitrary extortion as to be unconstitutional beyond all doubt. But if all other members of the state are paying reasonably fair taxes, the watchmakers cannot object because a special tax is laid upon them which may perhaps be slightly overburdensome. A recent New York case [1] upholding the constitutionality of the stock transfer stamp tax which imposed a tax of two cents for every transfer of a share of stock of the par value of one hundred dollars, calls for an application of this principle. *People ex rel. Hatch* v. *Reardon*, 34 N. Y. L. J. 1457 (App. Div., Jan. 1906). In the first place, the validity of the statute was attacked upon the ground that the owner of a one hundred dollar share worth ten dollars is taxed as much on each sale as the owner of a share worth five hundred. Undoubtedly this provision works unfairly in that it throws the burden on those who are least able to sustain it. But as some rule of thumb to ascertain the amount of the tax in each case was necessary for the practical operation of the law, and as this provision worked but slight injustice, if any, in the vast majority of cases, it is reasonable. Such slight inequalities, whenever they have been brought to the attention of the courts, have been sustained.[2] In the second place, the fact that approximately six million dollars, or nearly one-quarter of the entire state tax levy, is being exacted from this special class of persons by this tax renders its validity at least questionable. The courts are not, however, justified in annulling such a statute unless its discrimination is clear and excessive.[3] If the legislature were to discontinue all other methods of raising a revenue, and by increasing the amount of this tax to obtain therefrom a sufficient sum to cover all expenses, the tax would certainly be unconstitutional. In this case, however, only a part of the revenues of the state are derived from this source; and as a large amount of capital is invested in the business of buying and selling stocks, the classification of these sales together for purposes of taxation is reasonable, and the imposition of a large tax is within the discretion of the legislature. The cases upholding taxes upon express companies that do not own their means of transportation,[4] upon agents of unincorporated insurance companies,[5] and upon the obligations of corporations [6] illustrate the large discretion that is vested in the legislature in classifying the subjects of taxation and imposing burdensome taxes upon the various classes. Statutes have been overruled only when they have created entirely unreasonable classes. For instance, a tax upon those whose remainders vested prior to 1885 and who shall come into possession of their estate after the passage of the act,[7] or upon those who have not paid a previous tax,[8] have been held unconstitutional.

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[1] See Thomas *v.* U. S., 192 U. S. 363, sustaining a similar federal statute which was attacked merely on the ground that it was a direct tax and had not been properly apportioned as such.

[2] Bell's Gap R. R. Co. *v.* Pennsylvania, 134 U. S. 232. See also Nicol *v.* Ames, 173 U. S. 509.

[3] See Magoun *v.* Illinois, etc., Bank, 170 U. S. 283, 293.

[4] Pacific Express Co. *v.* Seibert, 142 U. S. 339.

[5] Fire Dep't, etc., of New York *v.* Stanton, 159 N. Y. 225.

[6] Bell's Gap R. R. Co. *v.* Pennsylvania, *supra.*

[7] Matter of Pell, 171 N. Y. 48.

[8] State, etc., Relators *v.* Township, etc., of Hunterdon, 36 N. J. Law 66.